

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 117
97TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 7, 2013, with recommendation that the Senate Committee Substitute do pass.

0321S.12C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 116.030, 116.040, 116.080, 116.090, 116.190, 116.332, and 116.334, RSMo, and to enact in lieu thereof nine new sections relating to initiative and referendum petitions, with penalty provisions and a delayed effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 116.030, 116.040, 116.080, 116.090, 116.190, 116.332, 2 and 116.334, RSMo, are repealed and nine new sections enacted in lieu thereof, 3 to be known as sections 116.030, 116.040, 116.080, 116.090, 116.115, 116.153, 4 116.190, 116.332, and 116.334, to read as follows:

116.030. The following shall be substantially the form of each page of 2 referendum petitions on any law passed by the general assembly of the state of 3 Missouri:

4 County

5 Page No.

6 It is a class A misdemeanor punishable, notwithstanding the provisions 7 of section 560.021, RSMo, to the contrary, for a term of imprisonment not to 8 exceed one year in the county jail or a fine not to exceed ten thousand dollars or 9 both, for anyone to sign any referendum petition with any name other than his 10 or her own, or knowingly to sign his or her name more than once for the same 11 measure for the same election, or to sign a petition when such person knows he 12 or she is not a registered voter.

13 **PETITION FOR REFERENDUM**

14 To the Honorable, Secretary of State for the state of Missouri:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 We, the undersigned, registered voters of the state of Missouri and
 16 County (or city of St. Louis), respectfully order that the Senate (or House) Bill No.
 17 entitled (title of law), passed by the general assembly of the state of
 18 Missouri, at the regular (or special) session of the general assembly,
 19 shall be referred to the voters of the state of Missouri, for their approval or
 20 rejection, at the general election to be held on the day of,, unless
 21 the general assembly shall designate another date, and each for himself or herself
 22 says: I have personally signed this petition; I am a registered voter of the state
 23 of Missouri and County (or city of St. Louis); my registered voting address
 24 and the name of the city, town or village in which I live are correctly written after
 25 my name. **(Official Ballot title)**

26 CIRCULATOR'S AFFIDAVIT

27 State Of Missouri,
 28 County Of

29 I,, being first duly sworn, say (print or type names of signers)

30	31	32	REGISTERED VOTING ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or typed)
33	(Here follow numbered lines for signers)					

34 signed this page of the foregoing petition, and each of them signed his or her
 35 name thereto in my presence; I believe that each has stated his or her name,
 36 registered voting address and city, town or village correctly, and that each signer
 37 is a registered voter of the state of Missouri and County.

38 **FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER**
 39 **PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE**
 40 **TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED**
 41 **OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE**
 42 **INVOLVING FORGERY.**

43 I am at least 18 years of age. I do do not (check one) expect
 44 to be paid for circulating this petition. If paid, list the payer

45
 46 Signature of Affiant
 47 (Person obtaining signatures)
 48
 49 **(Printed Name of Affiant)**

50

51 Address of Affiant

52 Subscribed and sworn to before me this day of, A.D.

53

54 Signature of Notary

55 Address of Notary

56 Notary Public (Seal)

57 My commission expires

58 If this form is followed substantially and the requirements of section 116.050 **and**
59 **section 116.080** are met, it shall be sufficient, disregarding clerical and merely
60 technical errors.

116.040. The following shall be substantially the form of each page of each
2 petition for any law or amendment to the Constitution of the state of Missouri
3 proposed by the initiative:

4 County

5 Page No.

6 It is a class A misdemeanor punishable, notwithstanding the provisions
7 of section 560.021, RSMo, to the contrary, for a term of imprisonment not to
8 exceed one year in the county jail or a fine not to exceed ten thousand dollars or
9 both, for anyone to sign any initiative petition with any name other than his or
10 her own, or knowingly to sign his or her name more than once for the same
11 measure for the same election, or to sign a petition when such person knows he
12 or she is not a registered voter.

13 INITIATIVE PETITION

14 To the Honorable, Secretary of State for the state of Missouri:

15 We, the undersigned, registered voters of the state of Missouri and
16 County (or city of St. Louis), respectfully order that the following proposed law
17 (or amendment to the constitution) shall be submitted to the voters of the state
18 of Missouri, for their approval or rejection, at the general election to be held on
19 the day of,, and each for himself or herself says: I have personally
20 signed this petition; I am a registered voter of the state of Missouri and
21 County (or city of St. Louis); my registered voting address and the name of the
22 city, town or village in which I live are correctly written after my
23 name. **(Official Ballot title)**

24 CIRCULATOR'S AFFIDAVIT

25 State Of Missouri,

26 County Of

27 I,, being first duly sworn, say (print or type names of signers)

28 29 NAME 30 (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or typed)
31 (Here follow numbered lines for signers)					

32 signed this page of the foregoing petition, and each of them signed his or her
33 name thereto in my presence; I believe that each has stated his or her name,
34 registered voting address and city, town or village correctly, and that each signer
35 is a registered voter of the state of Missouri and County.

36 **FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER**
37 **PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE**
38 **TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED**
39 **OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE**
40 **INVOLVING FORGERY.**

41 **I am at least 18 years of age. I do ... do not ... (check one) expect**
42 **to be paid for circulating this petition. If paid, list the payer**

43

44 Signature of Affiant

45 (Person obtaining signatures)

46

47 **(Printed Name of Affiant)**

48

49 Address of Affiant

50 Subscribed and sworn to before me this day of ..., A.D. ...

51

52 Signature of Notary

53 Address of Notary

54 Notary Public (Seal)

55 My commission expires

56 If this form is followed substantially and the requirements of section 116.050 and
57 section 116.080 are met, it shall be sufficient, disregarding clerical and merely
58 technical errors.

116.080. 1. Each petition circulator shall be at least eighteen years of age
2 and registered with the secretary of state. Signatures collected by any circulator

3 who has not registered with the secretary of state pursuant to this chapter on or
4 before 5:00 p.m. on the final day for filing petitions with the secretary of state
5 shall not be counted. **A petition circulator shall be deemed registered at
6 the time such circulator delivers a signed circulator's affidavit
7 pursuant to section 116.030, with respect to a referendum petition, or
8 section 116.040, with respect to an initiative petition, to the office of
9 the secretary of state.**

10 [2. Each petition circulator shall supply the following information to the
11 secretary of state's office:

- 12 (1) Name of petition;
13 (2) Name of circulator;
14 (3) Residential address, including street number, city, state and zip code;
15 (4) Mailing address, if different;
16 (5) Have you been or do you expect to be paid for soliciting signatures for
17 this petition?

18 YES NO;

19 (6) If the answer to subdivision (5) is yes, then identify the payor;

20 (7) Signature of circulator.

21 3. The circulator information required in subsection 2 of this section shall
22 be submitted to the secretary of state's office with the following oath and
23 affirmation:

24 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT
25 ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT.

26 **4.] No person shall qualify as a petition circulator who has been
27 convicted of, found guilty of, or pled guilty to an offense involving
28 forgery under the laws of this state or an offense under the laws of any
29 other jurisdiction if that offense would be considered forgery under the
30 laws of this state.**

31 **2.** Each petition circulator shall subscribe and swear to the proper
32 affidavit on each petition page such circulator submits before a notary public
33 commissioned in Missouri. When notarizing a circulator's signature, a notary
34 public shall sign his or her official signature and affix his or her official seal to
35 the affidavit only if the circulator personally appears before the notary and
36 subscribes and swears to the affidavit in his or her presence.

37 **[5.] 3.** Any circulator who falsely swears to a circulator's affidavit
38 knowing it to be false is guilty of a class A misdemeanor punishable,

39 notwithstanding the provisions of section 560.021 to the contrary, for a term of
40 imprisonment not to exceed one year in the county jail or a fine not to exceed ten
41 thousand dollars or both.

116.090. 1. Any person who **commits any of the following actions,**
2 **is guilty of the crime of petition signature fraud:**

3 (1) Signs any name other than his **or her** own to any petition, or who
4 knowingly signs his or her name more than once for the same measure for the
5 same election, or who knows he or she is not at the time of signing or circulating
6 the same a Missouri registered voter and a resident of this state; **or**

7 (2) **Intentionally submits petition signature sheets with the**
8 **knowledge that the person whose name appears on the signature sheet**
9 **did not actually sign the petition; or**

10 (3) **Uses any fraudulent means, method, trick, device, or artifice**
11 **to obtain signatures on a petition; or**

12 (4) **Causes a voter to sign a petition other than the one the voter**
13 **intended to sign; or**

14 (5) **Forges or falsifies signatures; or**

15 (6) **Knowingly accepts or offers money or anything of value to**
16 **another person in exchange for a signature on a petition.**

17 2. Any person who knowingly pays a petition circulator and
18 knows or reasonably should know that such person has violated
19 subsection 1 of this section, shall also be deemed to have committed the
20 crime of petition signature fraud.

21 3. A person who violates subsection 1 or 2 of this section, shall,
22 upon conviction thereof, be guilty of a class [A misdemeanor] **D felony**
23 punishable, notwithstanding the provisions of section 560.021 to the contrary,
24 [for] by a term of imprisonment not to exceed [one year in the county jail or a
25 fine not to exceed ten] **five years or a fine not less than one thousand or**
26 **more than twenty-five** thousand dollars or both.

27 [2. Any person who knowingly accepts or offers money or anything of
28 value to another person in exchange for a signature on a petition is guilty of a
29 class A misdemeanor punishable, notwithstanding the provisions of section
30 560.021 to the contrary, for a term of imprisonment not to exceed one year in the
31 county jail or a fine not to exceed ten thousand dollars or both.]

32 4. A circulator or any person employed by or serving as an
33 election authority, that has reasonable cause to suspect a person has

34 committed petition signature fraud, shall immediately report or cause
35 a report to be made to the appropriate prosecuting authorities. Failure
36 to so report or cause a report to be made shall be a class A
37 misdemeanor and a class one election offense, pursuant to section
38 115.631.

39 5. (1) A person commits the crime of malicious obstruction of the
40 signing of a petition if the person maliciously intimidates, obstructs, or
41 otherwise prevents a voter from signing a petition under this chapter,
42 or if the person attempts to intimidate, obstruct, or otherwise prevent
43 a voter from signing a petition under this chapter.

44 (2) Notwithstanding provisions of section 560.016 to the contrary,
45 malicious obstruction of the signing of a petition is a misdemeanor
46 punishable by a term of imprisonment not to exceed one year in county
47 jail, by a fine not to exceed ten thousand dollars, or both such
48 imprisonment and fine.

49 (3) No reasonable effort to inform or educate a potential signer
50 of a petition shall be construed to be malicious obstruction of the
51 signing of a petition under this section.

116.115. Any person who submits a sample sheet to or files an
2 initiative petition with the secretary of state may withdraw the petition
3 upon written notice to the secretary of state. If such notice is
4 submitted to the secretary of state, the proposed petition shall no
5 longer be circulated by any person, committee, or other entity. The
6 secretary of state shall vacate the certification of the official ballot title
7 within three days of receiving notice of the withdrawal.

116.153. Within thirty days of issuing certification that the
2 petition contains a sufficient number of valid signatures pursuant to
3 section 116.150, the joint committee on legislative research shall hold
4 a public hearing in Jefferson City to take public comments concerning
5 the proposed measure. Such hearing shall be a public meeting under
6 chapter 610. Within five business days after the end of the public
7 hearing, the joint committee on legislative research shall provide a
8 summary of the hearing to the secretary of state or his or her designee
9 and the secretary of state shall post a copy of the summary on the
10 website of the office of the secretary of state.

116.190. 1. Any citizen who wishes to challenge the official ballot title or
2 the fiscal note prepared for a proposed constitutional amendment submitted by

3 the general assembly, by initiative petition, or by constitutional convention, or for
4 a statutory initiative or referendum measure, may bring an action in the circuit
5 court of Cole County. The action must be brought within ten days after the
6 official ballot title is certified by the secretary of state in accordance with the
7 provisions of this chapter.

8 2. The secretary of state shall be named as a party defendant in any
9 action challenging the official ballot title prepared by the secretary of
10 state. When the action challenges the fiscal note or the fiscal note summary
11 prepared by the auditor, the state auditor shall also be named as a party
12 defendant. The president pro tem of the senate, the speaker of the house and the
13 sponsor of the measure and the secretary of state shall be the named party
14 defendants in any action challenging the official summary statement, fiscal note
15 or fiscal note summary prepared pursuant to section 116.155.

16 3. The petition shall state the reason or reasons why the summary
17 statement portion of the official ballot title is insufficient or unfair and shall
18 request a different summary statement portion of the official ballot
19 title. Alternatively, the petition shall state the reasons why the fiscal note or the
20 fiscal note summary portion of the official ballot title is insufficient or unfair and
21 shall request a different fiscal note or fiscal note summary portion of the official
22 ballot title.

23 4. The action shall be placed at the top of the civil docket. Insofar as the
24 action challenges the summary statement portion of the official ballot title, the
25 court shall consider the petition, hear arguments, and in its decision certify the
26 summary statement portion of the official ballot title to the secretary of
27 state. Insofar as the action challenges the fiscal note or the fiscal note summary
28 portion of the official ballot title, the court shall consider the petition, hear
29 arguments, and in its decision, either certify the fiscal note or the fiscal note
30 summary portion of the official ballot title to the secretary of state or remand the
31 fiscal note or the fiscal note summary to the auditor for preparation of a new
32 fiscal note or fiscal note summary pursuant to the procedures set forth in section
33 116.175. Any party to the suit may appeal to the supreme court within ten days
34 after a circuit court decision. In making the legal notice to election authorities
35 under section 116.240, and for the purposes of section 116.180, the secretary of
36 state shall certify the language which the court certifies to him.

37 **5. Any action brought under this section that is not fully and**
38 **finally adjudicated within one hundred eighty days of filing, including**

39 **all appeals, shall be extinguished, unless a court extends such period**
40 **upon a finding of good cause for such extension. Such good cause shall**
41 **consist only of court-related scheduling issues and shall not include**
42 **requests for continuance by the parties.**

116.332. 1. Before a constitutional amendment petition, a statutory
2 initiative petition, or a referendum petition may be circulated for signatures, a
3 sample sheet must be submitted to the secretary of state in the form in which it
4 will be circulated. When a person submits a sample sheet of a petition he or she
5 shall designate to the secretary of state the name and address of the person to
6 whom any notices shall be sent pursuant to sections 116.140 and 116.180 **and,**
7 **if a committee or person, except the individual submitting the sample**
8 **sheet, is funding any portion of the drafting or submitting of the**
9 **sample sheet, the person submitting the sample sheet must submit a**
10 **copy of the filed statement of committee organization required under**
11 **subsection 5 of section 130.021 showing the date the statement was**
12 **filed.** The secretary of state shall refer a copy of the petition sheet to the
13 attorney general for his approval and to the state auditor for purposes of
14 preparing a fiscal note and fiscal note summary. The secretary of state and
15 attorney general must each review the petition for sufficiency as to form and
16 approve or reject the form of the petition, stating the reasons for rejection, if any.

17 **2. Within two business days of receipt of any such sample sheet,**
18 **the office of the secretary of state shall conspicuously post on its**
19 **website the text of the proposed measure, a disclaimer stating that such**
20 **text may not constitute the full and correct text as required under**
21 **section 116.050, and the name of the person or organization submitting**
22 **the sample sheet. The secretary of state's failure to comply with such**
23 **posting shall be considered a violation of chapter 610 and subject to the**
24 **penalties provided under subsection 3 of section 610.027. The posting**
25 **shall be removed within three days of either the withdrawal of the**
26 **petition under section 116.115 or the rejection for any reason of the**
27 **petition.**

28 **3.** Upon receipt of a petition from the office of the secretary of state, the
29 attorney general shall examine the petition as to form. If the petition is rejected
30 as to form, the attorney general shall forward his or her comments to the
31 secretary of state within ten days after receipt of the petition by the attorney
32 general. If the petition is approved as to form, the attorney general shall forward

33 his or her approval as to form to the secretary of state within ten days after
34 receipt of the petition by the attorney general.

35 [3.] 4. The secretary of state shall review the comments and statements
36 of the attorney general as to form and make a final decision as to the approval
37 or rejection of the form of the petition. The secretary of state shall send written
38 notice to the person who submitted the petition sheet of the approval within
39 [thirty] **fifteen** days after submission of the petition sheet. The secretary of
40 state shall send written notice if the petition has been rejected, together with
41 reasons for rejection, within [thirty] **fifteen** days after submission of the petition
42 sheet.

116.334. 1. If the petition form is approved, the secretary of state shall
2 **make a copy of the sample petition available on the secretary of state's**
3 **website and refer a copy of the sample petition to the state auditor for**
4 **purposes of preparing a fiscal note summary. For a period of fifteen**
5 **days after the petition is approved as to form, the secretary of state**
6 **shall accept public comments regarding the proposed measure and**
7 **provide copies of such comments upon request. Within [ten] twenty-**
8 **three days of receipt of such approval, the secretary of state shall**
9 prepare and transmit to the attorney general a summary statement of the
10 measure which shall be a concise statement not exceeding one hundred
11 words. This statement shall be in the form of a question using language neither
12 intentionally argumentative nor likely to create prejudice either for or against the
13 proposed measure. The attorney general shall within ten days approve the legal
14 content and form of the proposed statement.

15 2. Signatures obtained prior to the date the official ballot title is certified
16 by the secretary of state shall not be counted.

17 3. **Signatures for statutory initiative petitions shall be filed not**
18 **later than six months prior to the general election during which the**
19 **petition's ballot measure is submitted for a vote, and shall also be**
20 **collected not earlier than the day after the day upon which the**
21 **previous general election was held.**

Section B. The repeal and reenactment of sections 116.030, 116.040,
2 116.080, 116.190, 116.332, and 116.334, and the enactment of sections 116.115
3 and 116.153 shall become effective on November 4, 2014.

Section C. The provisions of this act are severable. If any provision of this
2 act is found by a court of competent jurisdiction to be unconstitutional, the

3 remaining provisions are valid except to the extent that the court finds the valid
4 provisions, standing alone, are incomplete and are incapable of being executed in
5 accordance with the will of the people.

✓

Unofficial

Bill

Copy